

Message Text

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ACTION EUR-25

INFO OCT-01 EA-11 NEA-10 IO-14 ISO-00 AID-20 CEA-02

CIAE-00 COME-00 EB-11 FRB-02 INR-10 NSAE-00 RSC-01

OPIC-12 SPC-03 TRSE-00 CIEP-02 LAB-06 SIL-01 OMB-01

SCEM-02 SS-20 NSC-10 INT-08 PA-04 PRS-01 USIA-15

EURE-00 DRC-01 CCO-00 /193 W
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P R 091150Z NOV 73

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TO SECSTATE WASHDC PRIORITY 1054

INFO AMEMBASSY ANKARA

AMEMBASSY ATHENS

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ECOTO 06

E.O. 11652: N/A

TAGS: EGEN, OECD, OVIP (CASEY, WILLIAM J.)

SUBJECT: UNDER SECRETARY CASEY'S STATEMENT ON INVESTMENT AT
EXECUTIVE COMMITTEE IN SPECIAL SESSION (XCSS) NOV. 8

1. FOLLOWING IS TEXT OF STATEMENT DELIVERED BY UNDER
SECRETARY CASEY TO XCSS NOV. 8 ON INVESTMENT.

BEGIN TEXT.

MR. CASEY'S OPENING STATEMENT ON INTERNATIONAL
INVESTMENT AND MULTINATIONAL ENTERPRISE.

AS THE XCSS ENTRERS ITS SECOND YEAR, WE SHOULD RECALL, THAT
OUR WORK IN THE INTERNATIONAL
DIRECT INVESTMENT AREA WAS UNDERTAKEN AS AN IMPORTANT PART OF THE
EFFORTS UNDERWAY TO ADAPT THE INTERNATIONAL ECONOMIC SYSTEM TO NEW
NEEDS AND OPPORTUNITIES. AS I INDICATED AT THE JULY MEETING, "IF
GOVERNMENTS FAIL TO ESTABLISH STANDARDS AND UNDERSTANDINGS ON
INVESTMENT POLICIES, SUCCESS IN EASING TRADE BARRIERS THROUGH
THE GATT AND CLARIFYING AND REFORMING THE MONETARY ORDER IN THE IMF
CAN RESULT IN A SHIFTING OF COMPETITION TO SUBSIDIES AND TO
ARTIFICIAL BARRIERS TO INVESTMENTS."

OTHERS INDICATED A STRONG DESIRE TO EXAMINE POSSIBLE
PROBLEMS THAT MAY RESULT FROM THE ACTIVITIES OF MULTINATIONAL
ENTERPRISES AND TO EXPLORE THE POSSIBILITY OF A CODE OF
CONDUCT FOR INVESTORS. THE MANDATE WHICH RESULTED FROM THE JULY
MEETING REPRESENTED A BALANCE OF THE INTERESTS OF THE VARIOUS
COUNTRIES IN DEVELOPING STANDARDS AND PROCEDURES ON INVESTMENT
POLICIES. THAT MANDATE CALLED FOR A WORK PROGRAM IN
BOTH THE AREAS OF GOVERNMENTAL INVESTMENT POLICIES AND OF
THE ACTIVITIES OF MULTINATIONAL ENTERPRISES AND GOVERNMENT
POLICIES TOWARDS THESE ENTERPRISES: ABOVE ALL THERE WAS A
CONSENSUS THAT THE WORK OF THE XCSS IN THESE AREAS IS INDEED
IMPORTANT AND SHOULD PROCEED AS RAPIDLY AS IS FEASIBLE,
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CONSISTENT WITH THE COMPLEXITY OF THE VARIOUS ISSUES. SOME
IMPORTANT PROGRESS HAS BEEN MADE.

THE EXPERTS' MEETING LAST MONTH WAS USEFUL IN DEFINING
WHERE GENERAL AGREEMENT SEEMS TO EXIST AND IN ISOLATING AREAS
WHERE FURTHER WORK NEEDS TO BE DONE. THE EXPERTS' WORK HAS
INDICATED WHERE WE MIGHT FIND CONSENSUS AND WHERE THERE IS NEED
FOR EXPERIENCE AND CAUTIOUS EXPLORATION.

THE SECRETARIAT'S PAPER, SUMMARIZING AND COMMENTING ON THE WORK OF THE EXPERTS IS VALUABLE IN HELPING US TO ASSESS WHAT MIGHT CONSTITUTE ATTAINABLE OBJECTIVES AND ACCEPTABLE STEPS TOWARD ACHIEVING THEM.

IT SEEMS TO ME THAT WE SHOULD AIM AT TWO OBJECTIVES. THE FIRST WOULD BE TO LIBERALIZE INVESTMENT, AS IN THE FIELD OF TRADE, WE SHOULD ENCOURAGE CAPITAL AND SKILL TO MOVE FREELY INTO OUR COUNTRIES OR ANYWHERE ELSE WHERE SUPPLIERS OF CAPITAL AND SKILL BELIEVE IT CAN BE USED EFFICIENTLY PROVIDED EVENLY APPLIED LOCAL LEGAL AND OTHER REQUIREMENTS ARE MET. THE SECOND OBJECTIVE WE HAVE, AS MAY GOVERNMENT SEES IT, IS TO AVOID A COMPETITIVE ESCALATION OF SUBSIDIES WHICH COULD DISTORT THE FLOW OF INVESTMENT, BE SELF DEFEATING IN GENERATING FINANCIAL BURDENS AND INFLICT DAMAGE ON TRADE AND INVESTMENT IN OTHER COUNTRIES IN MUCH THE SAME WAY AS EXPORT SUBSIDIES.

IN PURSUING THESE OBJECTIVES WE MUST RECOGNIZE THAT RESTRICTIONS AND AIDS TO INVESTMENT ARE AND WILL BE UTILIZED TO IMPLEMENT REGIONAL AND OTHER NATIONAL POLICIES AND THAT WE CANNOT DO MORE, CERTAINLY AT THE OUTSET, THAN AGREE ON GENERAL PRINCIPLES WITH THE RECOGNITION THAT EXCEPTIONS MAY BE NECESSARY AND THE ACCEPTANCE THAT CONSIDERATION SHOULD BE GIVEN INTERNATIONAL REPERCUSSIONS OF THESE EXCEPTIONS. TO GIVE THIS GENERAL PRINCIPLE CONCRETE MEANING WE WOULD NEED A METHOD OF EXAMINING POLICIES, RESTRICTIONS AND INCENTIVES TO EVALUATE DISTORTIONS AND AVOID DAMAGE TO OTHERS. THIS EXAMINATION SHOULD BE ONE WHICH IS CONDUCTED MUTUALLY BY COUNTRIES AFFECTED AS THEY FIND A NEED OR EFFECT THAT CONCERNS THEM. THIS EXAMINATION SHOULD ADDRESS A SPECIFIC POLICY OR ITS APPLICATION.

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THIS CAN BE ACCOMPLISHED BY CONSULTATION WHICH SHOULD BE ON A BASIS WHICH BUILDS A BODY OF EXPERIENCE AND PRECEDENT.

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TO SECSTATE WASHDC PRIORITY 1055

INFO AMEMBASSY ANKARA

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IN THIS WAY, WE BELIEVE, WE CAN BEGIN TO BRING ORDER AND

REASONABLE STANDARDS TO THE FIELD OF NATIONAL INVESTMENT POLICIES ON A CASE BY CASE BASIS BUILT ON THE GRADUAL ACCUMULATION OF EXPERIENCE RATHER THAN PROLONGED STUDY AND ANALYSIS WHICH WOULD RESULT IN GREAT DELAY AND, IN OUR OPINION, PRODUCE ONLY STERILE GENERALITIES AND NOT PRODUCE CONCRETE OR SPECIFIC RULES OR GUIDELINES TO LIVE BY.

NOW LET ME BE MORE SPECIFIC. WE ARE GLAD TO NOTE THAT THERE APPEARS TO BE A GENERAL CONSENSUS, AS CONFIRMED IN THE EXPERTS' MEETING, ABOUT GIVING FORMAL EXPRESSION IN THE OECD TO THE PRINCIPLE OF NATIONAL TREATMENT TO FOREIGN INVESTMENT, AND WE AGREE THAT THE SECRETARY GENERAL SHOULD PREPARE A DRAFT GUIDELINE EMBODYING THIS PRINCIPLE. THIS GUIDELINE SHOULD MAKE CLEAR THAT THE PRINCIPLE OF NATIONAL TREATMENT APPLIES BOTH TO THE RIGHT OF ESTABLISHMENT AS WELL AS TO THE TREATMENT OF EXISTING FOREIGN INVESTORS. WHILE WE SHOULD RECOGNIZE THAT THERE MAY BE SPECIAL CIRCUMSTANCES WHICH MAY CAUSE COUNTRIES TO INTRODUCE EXCEPTIONS TO THIS PRINCIPLE, IT IS IMPORTANT THAT CARE BE TAKEN THAT THE PRINCIPLE ITSELF IS NOT OVERWHELMED THROUGH EXCESSIVE EXCEPTIONS AND THAT EXCEPTIONS NOT BE ON A PREFERENTIAL BASIS.

IN THE AREA OF INTERNATIONAL DISTORTIONS RESULTING FROM INVESTMENT POLICIES LITTLE PROGRESS HAS BEEN MADE. IN ITS NOTE, THE SECRETARY GENERAL HAS INDICATED SEVERAL APPROACHES THAT COULD BE FOLLOWED IN THIS AREA, AND MADE SOME THOUGHT-PROVOKING OBSERVATIONS ON THESE ALTERNATIVES. HE HAS ASKED THE XCSS FOR GUIDANCE AS TO HOW THIS WORK SHOULD PROCEED.

THE UNITED STATES BELIEVES THAT A DUAL APPROACH SHOULD BE FOLLOWED. FIRST WE SHOULD ASK THE SECRETARIAT WORKING TOGETHER WITH THE EXPERTS TO PROCEED WITH THE FORMULATION OF DRAFT PROPOSALS FOR CONSULTATION PROCEDURES AND GENERAL PRINCIPLES ON MATTERS PERTAINING TO INTERNATIONAL DISTORTIONS RESULTING FROM INVESTMENT POLICIES. MORE SPECIFICALLY, WE ENDORSE THE DEVELOPMENT OF PROCEDURES UNDER WHICH EACH COUNTRY COULD REQUEST CONSULTATIONS

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ON ANOTHER MEMBER'S INVESTMENT POLICIES IF IT BELIEVES THAT, AS A RESULT OF THESE POLICIES, IT IS SUFFERING SUBSTANTIAL DAMAGE TO ITS ECONOMIC INTERESTS.

THE RANGE OF INVESTMENT POLICIES ON WHICH CONSULTATIONS COULD BE REQUESTED SHOULD INCLUDE BOTH POSITIVE "INVESTMENT AIDS" AND THE VARIOUS RESTRICTIONS AND DISINCENTIVES THAT GOVERNMENTS MAY USE AS DEVICES TO INDUCE OR COMPEL INVESTORS TO ENTER INTO SPECIAL ARRANGEMENTS OR COMMITMENTS THAT WOULD TEND TO DISTORT MARKETS. HOWEVER, DOMESTIC MACRO-ECONOMIC POLICIES THAT GOVERNMENTS USE ACROSS THE BOARD TO INFLUENCE AGGREGATE DEMAND AND OTHERWISE MANAGE BROAD CYCLICAL OR STRUCTURAL DEVELOPMENT OF THE ECONOMY SHOULD BE EXCLUDED. THE CONCEPT OF DAMAGE TO ECONOMIC INTERESTS

SHOULD NOT BE NARROWLY DEFINED, ALTHOUGH WE EXPECT THE MAJORITY
OF CASES WOULD RELATE TO THE EFFECTS OF DISTORTIONS TO INTERNATIONAL
TRADE AND INVESTMENT FLOWS.

WE BELIEVE THAT IT IS DESIRABLE TO ESTABLISH CERTAIN IMPORTANT
PRINCIPLES AND GUIDELINES RELATING TO INVESTMENT.../... CASEY

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TO SECSTATE WASHDC PRIORITY 1056

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POLICIES WHICH WOULD SERVE AS CRITERIA FOR THESE CONSULTATIONS. THERE ARE THREE GENERAL PRINCIPLES WHICH WE THINK SHOULD BE CONSIDERED FROM THE OUTSET AS PROVIDING COMMON GROUND FOR THESE CONSULTATIONS. FIRST, WE WOULD SUGGEST THAT THE PRINCIPLE OF INTERNATIONAL NEUTRALITY IN GOVERNMENT INVESTMENT POLICIES -- THAT IS NEUTRALITY IN SO FAR AS THESE POLICIES AFFECT INTERNATIONAL TRADE AND INVESTMENT FLOWS -- IS AN IMPORTANT REFERENCE POINT. SECOND, POLICIES SHOULD BE PUBLICLY ANNOUNCED AND CLEARLY IDENTIFIABLE, THAT IS THE PRINCIPLE OF TRANSPARENCY. THIRD, THE PRINCIPLE OF NATIONAL TREATMENT OF FOREIGN INVESTORS SHOULD BE ADOPTED. THIS PRINCIPLE SHOULD BE STATED QUITE GENERALLY. IT IS EXPECTED THAT AS A RECORD OF CONSULTATIONS UNDER SUCH GENERAL PRINCIPLES AS THESE ACCUMULATES, MORE SPECIFIC STANDARD AND GUIDELINES MIGHT EMERGE.

ON A LONGER RANGE BASIS, WE RECOMMEND A SECOND APPROACH, WHICH WOULD FOLLOW AND BE A COMPLEMENT TO GENERAL PRINCIPLES AND CONSULTATIVE PROCEDURES. THIS APPROACH WOULD ASK THE SECRETARIAT WITH THE ASSISTANCE OF THE EXPERTS TO STUDY IN DEPTH VARIOUS ALTERNATIVE MORE OBJECTIVE GUIDELINES WHICH WOULD RELATE TO INTERNATIONAL DISTORTIONS RESULTING FROM INVESTMENT POLICIES. FOR EXAMPLE, THEY SHOULD EXAMINE THE STRENGTHS AND WEAKNESSES OF THE SPECIFIC QUANTITATIVE GUIDELINES BEING DEVELOPED IN THE EC. WE RECOGNIZE THAT THIS IS A PARTICULARLY DIFFICULT AREA SINCE MEASURES OF THE INTENSITY OF AN INCENTIVE OR DISINCENTIVE OR OF ITS DURATION MAY NOT CORRESPOND CLOSELY WITH THE RESULTING DISTORTION TO INTERNATIONAL TRADE OR INVESTMENT FLOWS, THAT IS, WITH THE DAMAGE TO ANOTHER MEMBER. YET, IN TIME AS A RESULT OF THESE STUDIES AND THE ACCUMULATION OF A RECORD OF CONSULTATIONS, WE WOULD HOPE THAT MORE EXPLICIT AND OBJECTIVE GUIDELINES FOR INVESTMENT POLICIES CAN BE DEVELOPED.

WITH RESPECT TO MULTINATIONAL ENTERPRISES, WE FIND IT MOST APPROPRIATE THAT THE EXECUTIVE COMMITTEE CONSIDER WORK IN THIS AREA AS PART OF OUR OVERALL EFFORT TO DEVELOP STANDARDS AND UNDERSTANDINGS FOR TRANSNATIONAL INVESTMENT. THIS WORK, RELATING
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TO THE CONTINUING OPERATIONS OF THE ENTERPRISES WHICH ARE CREATED BY TRANSNATIONAL INVESTMENT, SHOULD BE CLOSELY RELATED TO AND GUIDED BY OUR WORK ON ESTABLISHING THE PRINCIPLE OF NATIONAL TREATMENT OF FOREIGN INVESTORS AND DEVELOPING PRINCIPLES FOR GOVERNMENT INVESTMENT POLICIES. CERTAINLY, GENERAL UNDERSTANDINGS AND STANDARDS RELATING TO THE OPERATIONS OF THESE ENTERPRISES AND THEIR TREATMENT BY GOVERNMENTS WOULD LEAD TO AN IMPROVED, MORE STABLE CLIMATE FOR TRANSNATIONAL INVESTMENT.

THE ISSUES ARISING IN THIS AREA ARE OF A DIVERSE, AND IN MANY CASES, COMPLEX NATURE, AND THEREFORE , WE SUPPORT THE SECRETARY GENERAL'S SUGGESTION THAT THE SUBSTANTIVE WORK SHOULD BE CARRIED OUT MAINLY IN THE SPECIALIZED COMMITTEES. WE ALSO AGREE THAT THE EXPERS SHOULD PLAY A VALUABLE ROLE IN THIS AREA IN GIVING ADVICE ON THE COORDINATION OF THESE STUDIES AND IN REVIEWING AND CONSOLIDATING THE RESULTS OF THESE STUDIES PRIOR TO REVIEW BY THE XCSS. IN ADDITION,.... CASEY

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TO SECSTATE WASHDC PRIORITY 1057

INFO AMEMBASSY ANKARA

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THERE SHOULD BE CLOSE CONSULTATION WITH BIAC AND TUAC AS
SUGGESTED IN THE SECRETARY GENERAL'S NOTE.

THE FIRST PRIORITY IN THE WORK OF THE COMMITTEE SHOULD BE TO
DEFINE THE RELEVANT ISSUES. THEN THE VARIOUS APPROACHES
TO HANDLING EACH OF THE ISSUES SHOULD BE ANALYZED. GUIDELINES
RELATING TO BOTH THE ACTIVITIES OF TRANSNATIONAL ENTERPRISES
AND THEIR TREATMENT BY GOVERNMENTS ARE ONLY ONE OF THE ALTERNATIVE
APPROACHES; AND WE BELIEVE THAT IN MANY AREAS MORE EFFECTIVE
APPROACHES MAY BE FOUND SUCH AS INDIVIDUAL GOVERNMENT LEGISLATION
OR INTERGOVERNMENTAL AGREEMENTS. WE SHOULD NOT PREJUDGE THE
RESULTS OF THIS WORK.

THE SECRETARY GENERAL HAS RAISED THE SUGGESTION THAT THE
SPECIAL INTERNATIONAL INVESTMENT ISSUES PERTAINING TO DEVELOPING
COUNTRIES BE INCLUDED IN OUR WORK PROGRAM. THE UNITED STATES
CERTAINLY AGREES THAT THERE ARE MANY IMPORTANT PROBLEMS IN
THIS AREA OF PARTICULAR INTEREST TO THE MEMBER COUNTRIES.
HOWEVER, AS A MATTER OF PRIORITIES, WE BELIEVE THE XCSS SHOULD
CONCENTRATE FIRST ON ESTABLISHING AGREED UPON PRINCIPLES
FOR INVESTMENT AMONG DEVELOPED COUNTRIES. OUR ABILITY TO

PROGRESS IN THIS AREA WILL BE BASED UPON THE COMMON INTERESTS
OF THOSE MEMBERS WITH RELATIVELY DEVELOPED ECONOMIES, A PARTICULAR
STRENGTH OF OECD. THIS WORK IS A NECESSARY PRE-REQUISITE FOR
OUR SUBSEQUENTLY SEEKING TO APPROACH IN A MEANINGFUL WAY THE
INVESTMENT PROBLEMS RELATING TO DEVELOPING ECONOMIES.END TEXT.
CASEY

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